

1 Scott E. Gizer, Esq., Nevada Bar No. 12216  
2 *sgizer@earlysullivan.com*  
3 Sophia S. Lau, Esq., Nevada Bar No. 13365  
4 *slau@earlysullivan.com*  
5 EARLY SULLIVAN WRIGHT  
6 GIZER & McRAE LLP  
7 8716 Spanish Ridge Avenue, Suite 105  
8 Las Vegas, Nevada 89148  
9 Telephone: (702) 331-7593  
10 Facsimile: (702) 331-1652

11 Kevin S. Sinclair, State Bar Number 12277  
12 *ksinclair@sinclairbraun.com*  
13 SINCLAIR BRAUN LLP  
14 16501 Ventura Blvd, Suite 400  
15 Encino, California 91436  
16 Telephone: (213) 429-6100  
17 Facsimile: (213) 429-6101

18 Attorneys for Defendants  
19 CHICAGO TITLE INSURANCE COMPANY, FIDELITY  
20 NATIONAL TITLE GROUP, INC. and TICOR TITLE OF  
21 NEVADA, INC.

22 DESIGNATED LOCAL COUNSEL FOR SERVICE OF  
23 PROCESS ON SINCLAIR BRAUN LLP PER L.R. IA 11-1(b)

24 Gary L. Compton, State Bar No. 1652  
25 2950 E. Flamingo Road, Suite L  
26 Las Vegas, Nevada 89121

27 **UNITED STATES DISTRICT COURT**

28 **DISTRICT OF NEVADA**

BANK OF NEW YORK MELLON,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE GROUP,  
INC. et al.,

Defendants.

Case No.: 2:20-CV-01373-APG-DJA

**STIPULATION AND PROPOSED  
ORDER STAYING CASE PENDING  
APPEAL**

Plaintiff Bank of New York Mellon Trust Company, National Association and defendants Chicago Title Insurance Company, Fidelity National Title Group, Inc., and Ticor Title of Nevada, Inc. (collectively, the “Parties”), by and through their undersigned counsel, stipulate and agree as follows, subject to the approval of the District Court:

1       **WHEREAS**, this is one of several a title insurance coverage disputes pending in this  
 2 district following an HOA foreclosure sale. The majority of cases concern the ALTA 1992 loan  
 3 policy of title insurance with form 1 coverage, along with the CLTA 100/ALTA 9 Endorsement  
 4 and either the CLTA 115.1/ALTA 4 Endorsement or the CLTA 115.2/ALTA 5 Endorsement;

5       **WHEREAS**, one such matter is on appeal in *Wells Fargo Bank, N.A. v. Fidelity National*  
 6 *Title Ins. Co.*, Ninth Cir. Case No. 19-17332 (District Court Case No. 3:19-cv-00241-MMD-  
 7 WGC) (the “*Wells Fargo II Appeal*”). The parties to that case—whose counsel are also counsel  
 8 in this action—have been advised that the Ninth Circuit is considering the *Wells Fargo II Appeal*  
 9 for oral argument sometime between February and April of 2021;

10       **WHEREAS**, the Parties anticipate that the Ninth Circuit Court of Appeals’ decision in the  
 11 *Wells Fargo II Appeal* will likely touch upon issues regarding the interpretation of the title  
 12 insurance policy that could potentially affect the disposition of this action, particularly given some  
 13 of the similarities between the policy at issue in *Wells Fargo II Appeal* and the policy here;

14       **WHEREAS**, because the *Wells Fargo II Appeal* has the potential to resolve certain  
 15 matters at issue in this case, the Parties stipulate and agree that a stay of this particular case  
 16 pending the outcome *Wells Fargo II Appeal* is appropriate;

17       **NOW THEREFORE**, the Parties, by and through their undersigned counsel, hereby  
 18 stipulate and agree as follows:

- 19       1. The instant action shall immediately be **STAYED**, pending the disposition of the *Wells*  
 20 *Fargo II Appeal*.
- 21       2. The scheduling order previously entered in this action is hereby **VACATED**.
- 22       3. Each of the Parties shall be excused from responding to any now-outstanding  
 23 discovery requests propounded by the other until after the stay is lifted.
- 24       4. Any now-pending deadlines to file responses to, or replies in support of, any  
 25 outstanding motions are hereby **VACATED**.

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5. By entering into this stipulation, none of the Parties is waiving its right to subsequently move the Court for an order lifting the stay in this action.

Dated: December 3, 2020

SINCLAIR BRAUN LLP

By: /s/-Kevin S. Sinclair  
KEVIN S. SINCLAIR  
Attorneys for Defendants  
CHICAGO TITLE INSURANCE COMPANY,  
FIDELITY NATIONAL TITLE GROUP, INC.  
and TICOR TITLE OF NEVADA, INC.

Dated: December 3, 2020

WRIGHT FINLAY & ZAK, LLP

By: /s/-Lindsay D. Robbins  
LINDSAY D. ROBBINS  
Attorneys for Plaintiff  
BANK OF NEW YORK MELLON TRUST  
COMPANY, NATIONAL ASSOCIATION

**IT IS SO ORDERED.** IT IS FURTHER ORDERED that the motions to dismiss (ECF Nos. 14, 15, 16) are DENIED without prejudice to refile when the stay is lifted.

Dated this 4th day of December, 2020.

  
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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE